

The Maryland Board of Pharmacy Draft Public Minutes - April 21, 1999

President Stanton Ades called the public meeting to order at 8:50 A.M.

In attendance were President Stanton Ades; Commissioners W. Irving Lottier, Wayne Dyke, Donald Yee, Ramona McCarthy Hawkins, Laura Schneider, Jeanne Gilligan Furman, Raymond Love, Barbara Faltz Jackson and David Russo; Board Counsel, Paul Ballard; Board Staff, Executive Director, Norene Pease, David Denoyer, Pamm Wiggin and Wendy Wilson.

Guests present: Pharmacists Howard Schiff, James B. Davis, III, Marvin Freedenberg, Milton Moskowitz and Cathy Putz.

President Stanton Ades called for a moment of silence for the children and teacher that were killed in Colorado. President Ades requested that any member of the Board with a conflict of interest relating to an item on the agenda should notify the Board at this time.

There were no conflicts reported.

Approval of Minutes -

A motion was made by Ramona McCarthy Hawkins to approve the March public minutes and to add Ms. Wiggin's name to those who attended the meeting. The motion was seconded by Dr. Raymond Love with a unanimous approval from the Board.

Recusals -

No member of the Board had a conflict of interest relating to an item on the agenda.

Executive Director's Report/Executive Committee Report -

Ms. Pease reported that the SB586 State Board of Pharmacy was not reported out of Committee in the House. She stated that a pharmacist member of the Health and Environmental Matters Committee in the House had concerns about several provisions in the bill.

Reclassification Request for Administrators/Executive Directors Boards and the Commission - Ms. Pease is on the Personnel Committee of the Boards and the Commission. The Committee is attempting to reclassify Board Administrators and Executive Directors. A survey of board functions has been developed, approved by the Personnel Services Administration and mailed to Mid-Atlantic States. Board Executives are rewriting job descriptions with the intent to submit requests for reclassification to personnel in May.

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Request for EM Status Pharmacist and Administrative Officer - The request for a part time pharmacist to assist the Compliance Officer has been approved by the Department and an advertisement was placed in the Baltimore Sun and the Washington Post. The goal is to hire quickly and train the pharmacist to handle many of the responsibilities of the compliance unit. The paper work for the Administrative Officer has not yet been submitted to the Department for approval.

Resignation of Secretary DHMH and new Appointee - Secretary Martin P. Wasserman has resigned as Health Secretary effective April 30, 1999, Dr. Georges Benjamin, Deputy Secretary for Public Health, will become Secretary effective May 1, 1999.

Website Design, Statute on Website, Database Manager System, In-house Computer to Run Board Data Using the State Mainframe as Backup and Updating all Staff Computers - Ms. Banks, Computer Network Specialist, plans to have the Board's Website operational by July 1999. She will place Title 12 Pharmacists and Pharmacies on the Website and must obtain an exemption from the Division of State Records to post regulations on the Website. The Board directed Ms. Banks to request the exemption and for Mr. Ballard to review the letter of request.

Ms. Pease asked the Board to authorize Mr. Dyke and Mr. Lottier to review Ms. Bank's plan for the expenditure of funds through the end of F. Y. 99 including: replacement of Board computers, running the Board's database on a Board owned and managed computer and other projects. A motion was made by Ms. Jackson and seconded by Mr. Yee to authorize the Budget Committee and Ms. Pease to make the decisions on fiscal year end expenditures for computers and other appropriate projects.

Ms. Banks will continue to consider the purchase of "ready made" database software to run Board data. The current data system was designed by Ms. Banks and she believes several software developers now have systems that integrate licensing, financial and disciplinary data into a program that surpasses Ms. Bank's design. Ms. Banks will meet with representatives from these companies and make a recommendation to the Board, in the future about the purchase of this software.

Guest Presenter - *None*

Board Counsel's Report - *None*

Committee Reports -

Licensing Committee - Wayne Dyke

Wayne Dyke reported that there were 16 candidates for the reciprocity meeting held on April 19, 1999. These candidates are as follows: Kofi Bawuah, Jeffery Bruhl, Knikki Childs, Brent Cornell, *Lesley Dreistadt, Randy Fraulk, Stacey Henning, Carol Holquist, Shredat Kandhai, Michael Kieffer,

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Barry Pope, David Rabin, Tara Turner, Susan Weis, Kenneth Zeladonis and John Zlotek. (*Ms. Dreistadt is awaiting results of Oral Competency. Mr. Dyke moved that all reciprocity candidates be approved. The motion was seconded by Barbara Faltz-Jackson with a unanimous approval from the Board.

Mr. Dyke stated that he would like to finalize the wet lab examination, including the new intravenous (I.V.) preparation. Ms. Pease responded that there is an Memorandum of Understanding (MOU) with the School of Pharmacy that can be amended to cover the additional costs of this exam.

Regulation Update -

Pamm Wiggin, Legislative Officer reported on the status of various regulations.

Both the Pharmacist Code of Conduct and the regulations pertaining to electronic transmission of prescriptions, have been published in the Maryland Register, comments have been received and written responses have been mailed. The Board recommended adoption of both sets of regulations as published. In both cases, interested parties, MedChi and NACDS, respectively, have subsequently, asked to meet with representatives of the Board to discuss matters further. The Board has arranged meetings with both groups, with no action anticipated until after the respective meetings.

Regulations governing the use of portable drug kits by hospice and home health nurses are being reviewed by DHMH and publication in the Maryland Register is anticipated in the next several months. The Board requested that Ms Wiggin contact Licensing and Certification, in writing, to enquire when regulations governing maintenance and storage of the kits at home health agencies could be expected. In addition, the Board expressed concern that the regulations relating to storage, should be in force when the portable drug kits are authorized for use by registered nurses. Ms. Wiggin advised the Board that, given the time frame to promulgate regulations, this was unlikely.

Pharmacy security regulations are currently being reviewed by DHMH and publication in the Maryland Register is expected in the next several months. These regulations have been distributed to a number of the major pharmaceutical associations and they are not expected to elicit extensive comments.

Ms Wiggin presented revised pharmacist reinstatement regulations to the Board for their initial review. The revisions, though structurally substantial, have very limited change in content and were revised to primarily provide clarification and completeness. The Board agreed to review the materials presented and get comments back to Ms. Wiggin prior to the next Board meeting.

PEAC (Pharmacists Education and Assistance Committee) Update -

Ms. Pease reported that PEAC had been awarded the Pharmacist Rehabilitation contract. Paperwork

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has been finalized, but is awaiting approval by the Division of Contracts. Milton Moskowitz, Chairman of PEAC Committee, gave the report. PEAC contracts normally monitor individuals for three (3) years. Presently, PEAC has twenty-six (26) cases of which nine (9) are Board referred. PEAC hopes to better inform pharmacists about the role of the committee. President Stanton Ades noted marketing efforts need to be two-pronged;

1. To inform Pharmacists; and
2. To attract monitors.

Mr. Ades suggested using MPhA and the Board newsletters to publicize these efforts. Dr. Love and Mr. Lottier agreed with these suggestions, with the caveat that this was not an attempt to solicit funds rather to inform the public about the role of the PEAC.

Pharmacy Practice Committee - Dr. Raymond Love

Task Force on Pharmacy Support Staff

In the absence of Commissioner Mel Rubin, Chair of the Task Force on Pharmacy Support Personnel, Ms Wiggin reported that the Task Force discussed options for some level of licensure/certification/registration for pharmacy technicians in the future.

Draft regulations pertaining to the role of unlicensed personnel in the prescription process were distributed to professional pharmaceutical associations for their review and comments prior to the next Task Force meeting in June. In addition, the Task Force reviewed the “public information brochure” on pharmacy support staff and recommended that it be reviewed for reading level and vocabulary and evaluation for appropriateness by focus groups. Alan Friedman offered to use Kaiser’s communication resources for these purposes. Those present also made various comments which were as follows:

Mr. Moskowitz considered the brochure to be good in concept but with insufficient emphasis on pharmacists and their role. Ms. Wiggin commented that the brochure was a response to a consumer’s questions about the role and responsibilities of an unlicensed employee in the prescription process. Stanton Ades added that the purpose of the brochure was at least in part to highlight the value of support personnel. Commissioners Furman and Faltz-Jackson both expressed the opinion that the brochure should be reviewed by consumers; that the consumer should know who they are dealing with and the role/ qualifications/ training of the support personnel. Ms. Pease reported she had been contacted by a number of consumers who had expressed an interest and willingness in contributing to a focus group. In addition, the Board has funding budgeted for a media campaign that will highlight the important role of pharmacists on the health care delivery team.

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Dr. Love enquired whether the Public Affairs Committee had reviewed the brochure and recommended they do so. Dr. Love also indicated that a number of the technical terms, such as “permit holder”, should have examples to assist the consumer’s understanding of the terms and the roles.

Marvin Freedenberg commented that there was excessive comparison with the physician’s office and the focus should remain with the pharmacist’s environment. Board Counsel commented that, as a consumer, he has no idea “who is who” when he visits the pharmacy. Commissioner McCarthy Hawkins stated that pharmacist and pharmacy technician should be readily identifiable to the consumer. Commissioner Furman reiterated that customer service is the issue. Dr. Love felt that pharmacists were often lost in the shuffle, filling prescriptions at the back of the dispensing area and were not routinely required to have consumer contact. He did not consider this desirable; he also suggested that the brochure identify who could/ should answer the consumer’s questions, despite the absence of a “pharmacist-in -charge” law in Maryland. Secretary Lottier inquired where or to whom the brochure was intended to be distributed. Ms. Pease responded that this could be included with the annual report which is distributed to all pharmacies and to libraries throughout the State. Ms. Pease further stated she would consult with the Public Relations Committee on finalizing the brochure.

Task Force on Automation -

Commissioner Furman reported on the work of the Task Force to date. The major types of automation in drug storage and distribution have been reviewed and the members are drafting regulations, using the NABP guidelines as a basis. The next meeting is scheduled for April 28th; thereafter, the meetings will be held on the second and fourth Thursdays of each month. Dr. Love commented that most of the errors that are reported appear to occur with “pyxis-type” machines. Ms. Furman reported that the pyxis legislative representative has offered to speak to the Task Force. This system has safeguards that need to be used. Dr. Love indicated that the Task Force intended to establish specific criteria to establish safeguards that will help prevent access to the wrong medication.

Practice Committee -

Dr. Love reported on the meeting of April 7, 1999. New topics included the availability of Viagra by prescription over the Internet. The Practice Committee intended to liaise with the Board of Physician Quality Assurance (BPQA) on this topic, since initial inquiries on this topic had been directed to BPQA. Pharmacies are currently offering on-line prescription services and both issues could benefit from joint consideration by the Board of Pharmacy and BPQA. Ms Wiggin was asked to consult with Michael Compton, Executive Director of BPQA, regarding a joint task force to address these issues. In addition, the Practice Committee had revisited the question of appropriate

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drug depots and outsourcing. Ms Wiggin was asked to review state laws on mail order pharmacies for references and limitations on delivery sites. This subject will also impact internet pharmacy services.

Key areas to be considered by the committee in determining safe and appropriate drug depots include: who requests delivery, must this be initiated by the patient; what documentation of delivery/ receipt is appropriate; how to maintain consumer confidentiality with respect to the contents of the prescription while ensuring that the correct medication arrives in the hands of the consumer for whom it was prescribed?

Dr. Love reported that the Practice Committee had established several basic principles governing the use of drug depots as follows: requests for delivery must be made by the patient or their authorized representative and must be documented, the identity of the medication should be obscured if it is to be delivered to a site other than to the patient, the agent where the medications are to be delivered must be named and the agent has the right to refuse acceptance of delivery, medications may only be delivered to the home, place of employment or unauthorized prescribers office.

Review of Guidelines for Medication Administration in Schools - Jeanne Furman -

Jeanne Furman reported that on January 25, 1999 a letter was sent to the Board of Nursing from Ms. Vicki Taliaferro, RN, Health Service Specialist asking whether school nurses could delegate and supervise unlicensed person in packaging a child's single medication dose for a field trip. The Board of Nursing reiterated in a letter dated February 24, 1999 its position that (re)packaging of medication for students may only be assumed by an RN or LPN. In addition, the Board of Nursing referred the enquiry to the Board of Pharmacy. Ms. Furman advised Ms. Taliaferro that the Board of Pharmacy can not condone the delegation of dispensing and labeling student drugs to school personnel. Ms. Furman suggested a variety of alternate, acceptable options.

A motion was made by Dr. Love to have Mr. Denoyer and Ms. Furman to draft a letter to the Board of Nursing, advising the Board that their February 24, 1999 letter to the State Department of Education, violates current pharmacy laws and that medication utilized during field trips should be placed in a properly labeled vial.

The motion was seconded by Ms. Jackson with a unanimous approval from the Board.

Mr. Denoyer suggested using the Board's newsletter to request pharmacists to intervene in providing doses of medication when needed for field trips.

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Disciplinary Committee - Mel Rubin's Proposed Change in Procedure -

Mr. Denoyer stated that a backlog in the review of complaints has developed, resulting in a delay in responding to consumers, regarding the status of the complaint. These responses consist of closing the case or referring the case for investigation. The problem has been associated with consumers having the time to review the cases prior to staff taking action. David requested that the Board ratify Commissioner Rubin's suggestion that the pharmacist members of the Disciplinary Committee review the cases and make recommendations for follow-up. Subsequently, the consumers would review them and if they have any changes regarding the handling of the complaint, the consumer would notify staff to consult with the pharmacist members of the Committee and determine the best means for proceeding with the complaint. Ms. Jackson suggested that the Board recruit a retired consumer to review complaints. Dr. Love suggested peer review of complaints. Mr. Ballard stated that a consumer complaint can not be reviewed by anyone other than a Board member. Mr. Ballard further stated, that staff members can be part of the decision process, but cannot render decisions concerning complaints only the Board members should participate in making decisions on complaints and disciplinary matters. President Ades directed the Board to use Mr. Rubin's letter as a guideline for the Disciplinary Committee.

Public Relations Committee/Counsel of Boards Report -

Status Media Campaign Request for Proposals - Ms. Pease reported that draft request for proposals was sent to the Division of Contracts in February 1999 and staff is awaiting comments from the Division. The Board continues to plan to use funding allocated for the media campaign in 1999. Contracts has advised staff that the Board can expect to expend approximately one third of the total amount allocated in 1999.

Authority for Signing Administrator's/Executive Director's Time sheets -

Ms. Pease reported that a memorandum was sent to all Boards by the Acting Deputy Secretary for Health Care Finance, Policy and Regulation in reference to the signing of time sheets. The Board's position is to authorize officers of the Board to sign the Executive Director's time sheet. In the case of the Board of Pharmacy, the Board would request authorization for the Board Secretary to sign the Executive Director's time sheet. The Board Secretary is also authorized to make purchases and hire personnel on behalf of the Board. The Counsel of Boards wants to make sure that it is clear that the Boards are independent entities by law and have direct control of budget, hiring and termination of employees; and that Board officers can sign off on time sheets.

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Questions for the Board

Functions performed by Pharmacy Students -

On March 24, 1999, Jack Freedman, Chief of DDC, wrote a memo to Compliance Officer David Denoyer, asking whether or not there are any limitations in the functions that a pharmacy student may perform in a pharmacy under the supervision of a licensed pharmacist. Citing the Pharmacy Practice Act, Section §§12-502 and 12-301, Mr. Denoyer responded that there were no limitations on the details of what a student may participate in, as long as the student is directly supervised by pharmacist on site.

OASIS Methadone Issue -

In response to a letter from Karst Besterman, CEO of OASIS Clinic, Mr. Denoyer advised Mr. Besterman that subject to approval from DEA, the Board of Pharmacy approved the plan presented by OASIS to dispense take home doses of methadone or other drugs.

Informational -

The Board did not comment on any of the written informational material provided.

Meeting Adjourned at 11:30 a.m.

Respectfully Submitted,

W. Irving Lottier, Jr.
Secretary